Public Service Grievance Board

ANNUAL REPORT
2013-2014

MESSAGE FROM THE CHAIR

I am pleased to report that the Public Service Grievance Board has continued to carry out its mandate with skill, integrity and impartiality and in a cost effective manner during the fiscal year 2013-2014. This mandate is to provide independent dispute resolution services (mediation, mediation/arbitration, and arbitration) for employment disputes involving certain members of the Ontario Public Service who are not covered by a collective agreement and their government employers.

The Public Service Grievance Board is an independent employment tribunal that exercises the powers and duties conferred upon it by the Public Service of Ontario Act, 2006, and O. Reg. 387/07. The Board's goal is to encourage harmonious workplace relations within the Ontario Public Service by dealing with the disputes brought before it in a fair, impartial and expeditious manner. I can report that the Board achieved this goal through the combined efforts of the Board's members and its very capable staff.

This fiscal year was a period of transition for the Board as members and staff bid farewell to Donald Carter, whose term as part-time Chair ended on November 30, 2013. I am very grateful for his very capable leadership throughout his term as Chair which began on December 1, 2002. Effective February 26, 2014, Vice-Chair Kathleen O'Neil was appointed part-time Interim Chair. Vice-Chair Deborah Leighton has continued to serve the Board on a part-time basis for the whole fiscal year, for whose skill and commitment I am also very grateful. All three are professional labour relations adjudicators who bring to the Board extensive experience in the broader labour relations community. Their skill, experience, and professionalism greatly contribute to the effectiveness of the Board as an independent dispute resolution agency. The Board's ability to schedule and conclude matters on a timely basis will be enhanced when its adjudicative resources are restored to its statutory complement of at least three members.

The Board's administrative staff is led by Caroline Goodwin, the Board's Secretary. As a part-time Interim Chair, I am very much in her debt, and in the debt of her capable staff, for the impressive efficiency with which the Board is run. Their work is essential to fulfilling the Board's responsibility to be administratively accountable within the larger structure of government. Through their efforts the Board has been able to meet its administrative responsibilities in a timely, responsible and cost effective manner.

Kathleen G. O'Neil

Interim Chair, Public Service Grievance Board

June 2014

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1. PSGB MANDATE

The Public Service Grievance Board (PSGB) is an independent adjudicative tribunal that exercises the powers and duties conferred upon it by the Public Service of Ontario Act, 2006, and O. Reg. 387/07. The PSGB is classed as an adjudicative agency accountable to the legislature through the Chair of Management Board of Cabinet. The overall objective of the Board is to provide dispute resolution services between certain management/excluded crown employees and the government as their employer.

The adjudicative independence and neutrality of the PSGB is preserved by its physical location - it is separated from government agencies other than its co-tribunal the Grievance Settlement Board (GSB), and by the fact that the members of the PSGB are labour relations mediators/adjudicators who are prominent

and well respected in the broader labour relations community. The Board's Chair and its Vice-Chairs bring to it extensive experience in both mediation and adjudication. When third party intervention is needed, the Board provides mediation or, in the alternative, an expeditious process of adjudication.

2. HUMAN RESOURCES

LIST OF APPOINTEES – PUBLIC SERVICE GRIEVANCE BOARD

Name	OIC Appointment	Initial Appointment	Expiry Date of Current Appointment
Donald Carter	Chairperson	01-Dec-2002	30-Nov-2013
Deborah Leighton	Vice-Chair	25-Sept-1992	30-Jul-2015
Kathleen O'Neil	Vice-Chair	18-Feb-2004	17-Feb-2014

ORDER IN COUNCIL APPOINTMENTS

Chair (OIC expired November 2013

DONALD CARTER

Donald Carter is Chair of the Ontario Public Service Grievance Board and an active mediator/arbitrator. He is a Professor Emeritus at the Queen's University Faculty of Law and continues to teach a course at Queen's dealing with grievance arbitration and mediation. He is also an editor of LexisNexis Quicklaw's Labour Arbitration Xpress. From 1993 to 1998 he served as Dean of Law at Queen's University and from 1985 to 1990 as Director of that University's Industrial Relations Centre/School of Industrial Relations. He was President of the Canadian Industrial Relations Association in 1991-92 and Chair of the Ontario Labour Relations Board from 1976 to 1979.

VICE CHAIRS

DEBORAH LEIGHTON

Deborah J.D. Leighton, B.A. (Law, Oxford), L.L.M, J.D., is an Adjunct Professor in the School of Policy Studies at Queen's University. There she teaches courses in labour and employment law, human rights, arbitration and mediation. Her private practice includes mediations and arbitrations of commercial and labour disputes. Ms. Leighton is named as a mediator/arbitrator in numerous collective agreements, including Air Canada and ACPA's collective agreement and AGO and OPSEU's collective agreement. She is also a Vice Chair of the Grievance Settlement Board, and has served as an adjudicator for the Ontario Human Rights Tribunal (1992-98). Ms. Leighton is a member of the Florida Bar and the Law Society of Upper Canada.

KATHLEEN O'NEIL

(Interim Chair effective February 2014)

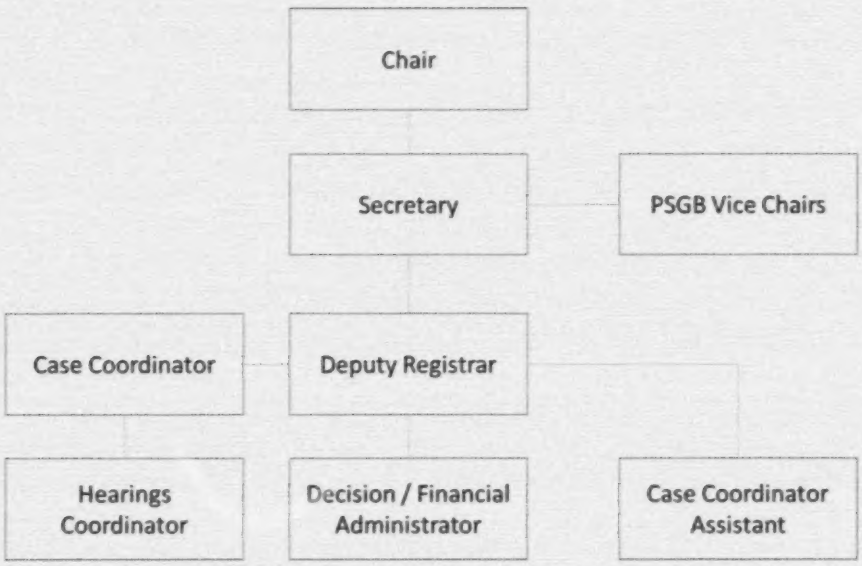
Kathleen G. O'Neil brings over twenty-five years of experience as an adjudicator to her position as Vice Chair, Ontario Public Service Grievance Board. She previously served as Vice Chair of the Ontario Labour Relations Board (1988 to 1997), and of the Workers' Compensation Appeals Tribunal (1986 to 1988). Since 1997, she has been active in her private practice as a mediator and arbitrator dealing with grievances under Ontario and federal labour statutes, as well as a mediator in a wide variety of matters including human rights, employment related disputes, and general civil litigation. Admitted to the Bar of Ontario in 1979, she holds a B.A. from the University of Toronto and an LL.B. from Osgoode Hall Law School.

THE SECRETARY

CAROLINE GOODWIN

Caroline Goodwin has over 25 years of experience as an administrator in the labour relations field, commencing her OPS career with the Grievance Settlement Board. During her career, she gained broad experience through secondments with the Ministry of Labour, Finance and Administration Branch, the Human Rights Tribunal of Ontario, and the Pay Equity Hearings Tribunal. She has served as the Board's secretary since 2003.

Organizational Chart – PSGB



3. OVERVIEW OF ACTIVITIES

PSGB Mission Statement

To provide appropriate dispute resolution services to management/excluded employees and their employers in a fair, impartial and expeditious manner and promote harmonious labour relations in the Ontario Public Service.

Overview of Programs and Activities

By statute, the PSGB is comprised of a part-time Chair and two part-time Vice Chairs. Members of the PSGB bring to it extensive experience as both labour mediators and arbitrators.

The administrative functions of the PSGB are performed by a full-time administrative staff under the direction of the Board's Secretary. For those who use the PSGB's dispute resolution services, the first point of contact is with its administrative staff.

Once a complaint has been filed with the PSGB, mediation is usually the first step in the Board's dispute resolution process. A confidential mediation session provides the opportunity for grievors and their employer to resolve complaints in an expeditious and informal manner. A large proportion of complaints are now successfully resolved through the PSGB's mediation process conducted by one of the Board's members (Chair or Vice Chair).

If a complaint cannot be resolved through mediation, it is then scheduled for a full adjudicative hearing. At these hearings, evidence and arguments are presented in a more formal manner. A member of the PSGB (Chair or Vice Chair) will preside over the hearing, deal with procedural and evidentiary issues, listen to the evidence and argument, and then prepare a written decision. In more complicated cases the hearing could take longer than one day.

It can be seen from this overview that the PSGB makes available to grievors and their employer both mediation and adjudicative services. Regardless of which process is followed, however, it is always the primary concern of the PSGB that complaints be resolved in a fair, impartial, and expeditious manner.

The number of new complaints filed with the Board has increased substantially over the past three fiscal years, with a single year increase from 52 to 148 between the 2011/2012 and 2012-2013 fiscal years. Although the number of complaints filed was slightly down in fiscal year 2013/2014 (from 148 to 112), the overall increase in the last

few years continues to keep our active case load much higher than in past years. Of the cases closed during this fiscal year, 78% closed through settlement or withdrawal. (See charts on pp. 9 to 11 below).

4. PSGB APPLICATIONS FILED 2010-2014

PUBLIC SERVICE GRIEVANCE BOARD ACTIVITY

TOTAL = PSGB FILES FOR FISCAL 2010-2011		*% of change over previous fiscal*
APRIL:	4	50.00 % decrease
MAY:	5	28.57 % decrease
JUNE:	5	25.00 % increase
JULY:	5	150.00 % increase
AUGUST:	1	75.00 % decrease
SEPTEMBER:	4	0.00 % decrease
OCTOBER:	4	33.33 % increase
NOVEMBER:	6	50.00 % increase
DECEMBER:	6	N/A % increase
JANUARY:	1	50.00 % decrease
FEBRUARY:	2	100.00 % increase
MARCH:	1	N/A % increase
TOTAL:	**44**	12.82 % increase
Average	*4*	

TOTAL = OF PSGB FILES FOR FISCAL 2011-2012		*% of change over previous fiscal*
APRIL:	1	75.00 % decrease
MAY:	5	0.00 % decrease
JUNE:	4	20.00 % decrease
JULY:	6	20.00 % increase
AUGUST:	12	1100.00 % increase
SEPTEMBER:	6	50.00 % increase
OCTOBER:	0	100.00 % decrease
NOVEMBER:	2	66.67 % decrease
DECEMBER:	4	33.33 % decrease
JANUARY:	0	100.00 % decrease
FEBRUARY:	7	250.00 % increase
MARCH:	5	400.00 % increase
TOTAL:	**52**	18.18 % increase
Average	*4*	

TOTAL = PSGB FILES FOR FISCAL 2012-2013		*% of change over previous fiscal*
APRIL:	6	500.00 % increase
MAY:	11	120.00 % increase
JUNE:	16	300.00 % increase
JULY:	7	16.67 % increase
AUGUST:	8	33.33 % decrease
SEPTEMBER:	2	66.67 % decrease
OCTOBER:	6	N/A % increase
NOVEMBER:	4	100.00 % increase
DECEMBER:	6	50.00 % increase
JANUARY:	7	N/A % increase
FEBRUARY:	49	600.00 % increase
MARCH:	26	420.00 % increase
TOTAL:	**148**	184.62 % increase
Average	*12*	

TOTAL = PSGB FILES FOR FISCAL 2013-2014		*% of change over previous fiscal*
APRIL:	20	233.33 % increase
MAY:	14	27.27 % increase
JUNE:	5	68.75 % decrease
JULY:	20	185.71 % increase
AUGUST:	4	50.00 % decrease
SEPTEMBER:	3	50.00 % increase
OCTOBER:	0	100.00 % decrease
NOVEMBER:	5	25.00 % increase
DECEMBER	27	350.00 % increase
JANUARY:	10	42.86 % increase
FEBRUARY:	3	93.88 % decrease
MARCH:	1	96.15 % decrease
TOTAL:	**112**	24.32 % decrease
Average	*9*	

5. PSGB CASELOAD 2013-2014

PSGB Caseload 2013/2014	
Active Cases as at March 31, 2013	135
Cases filed in fiscal 2013/2014	112
Cases re-opened/input in Case Management System	1
Total Active Cases	**248**
Cases Disposed of:	
By Decision and Decisions without Hearing	17
Settled	53
Withdrawn	7
Duplicate File	1
Total Cases Disposed	**78**
Active Cases at March 31, 2014*	**170**
*** Active Inventory**	
To Be Scheduled	12
Schedule Continuation	17
Scheduled	22
Decision Pending	2
Settlement Pending	4
Adjourned Sine Die	113

6. FINANCIAL INFORMATION

The Public Service Grievance Board receives its funds through an allocation from the Grievance Settlement Board, which is funded as a budget item of the Ministry of Labour. Expenditures made on behalf of the PSGB are recovered from the Employer and refunded to the Grievance Settlement Board.

The PSGB charges the Employer a $300 filing fee for each grievance filed at the Board along with the Chair's per diem, administrative, and travel costs.

The attributable costs reflect those costs incurred by the Employer that are directly related to the hearing of a particular case, as well as the cost of using a hearing room at the Board.

Public Service Grievance Board					
	2009-10	2010-11	2011-12	2012-13	2013-14
Chair Per Diem (annual)	61,974.50	56,390.39	56,440.00	56,440.00	49,368.40
Chair Administrative and Travel Costs	314.26	240.28	505.79	322.08	3,153.28
Attributable Costs	75,818.73	65,987.13	39,925.02	48,694.77	56,778.44
Administrative/Filing Fees (# of cases filed x $300)	12,900.00	13,200.00	15,300.00	41,100.00	37,500.00
Hearing Rooms at the Board	9,750.00	9,150.00	4,400.00	10,200.00	10,200.00
Total:	**$160,757.49**	**$144,967.80**	**$116,570.81**	**$156,756.85**	**$157,000.12**
Number of Cases filed	**39**	**44**	**53**	**148**	**112**

7. PERFORMANCE MEASURES

Measure	2013-2014 Commitments	2013-14 Achievements
Elapsed time to acknowledge receipt of grievance	100% of grievances received to be acknowledged within 30 days.	100% of grievances received were acknowledged within 30 days.
Elapsed time from receipt of Application Form to offering dates	100% of grievances will be offered dates for scheduling within 30 days of receipt of Application Form.	100% of grievances were offered dates for scheduling within 30 days of receipt of Application Form.
Percent of grievances disposed of by settlement or withdrawn	50% of grievances disposed of by settlement or withdrawn	78% of grievances disposed of by settlement or withdrawn
Timeliness of decisions released by the PSGB	80% of decisions to be released within 90 days of completion of hearing and/or receipt of submissions.	The Board released 12 decisions with 8 meeting the commitment of a 90 day release and 4 fell outside the 90 day commitment.
Percent of judicial reviews upheld	100% of decisions upheld on judicial review	1 decision was put to Judicial Review with no outcome as of March 31, 2014